

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BLACKSTONE DEVELOPERS, LLC,

§

Plaintiff,

§

vs.

§

CIVIL ACTION NO. 3:15-cv-01072-N

LIBERTY MUTUAL INSURANCE,

§

Defendant.

§

AGREED MOTION FOR CONTINUANCE

Plaintiff Blackstone Developers, LLC (“Plaintiff”) and Defendant Ohio Security Insurance Company (collectively, the “Parties”) file this Agreed Motion or Continuance, and in support thereof would respectfully show as follows:

I.

BACKGROUND AND BASIS FOR REQUESTED RELIEF

This lawsuit arises out of an insurance claim for alleged storm damage to commercial property located at 205 S. Main Street, Red Oak, Texas. Trial is currently set for February 13, 2017 based on the Court’s Amended Scheduling order issued in late June, 2016. Since the Court’s entry of this order, the Parties have worked cooperatively and diligently to complete the remaining written and deposition discovery. The Parties have exchanged complete sets of written discovery and Defendants have taken the depositions of Plaintiff’s designated experts.

A. COMPLETION OF DISCOVERY

In attempting to schedule the remaining depositions, however, the parties have encountered various issues related to the schedule of both witnesses and counsel. More specifically, there has been difficulty in scheduling the deposition of Plaintiff’s corporate representative. Plaintiff’s corporate representative, the Owner of Blackstone Developers, LLC and the individual with the most

knowledge of the facts and circumstances giving rise to Plaintiff's claims, spends a majority of his time in Japan. Due to his international travel, requiring him to spend most of his time overseas, Plaintiff's corporate representative has not been available and will not be available until after the first of the year.

Also, the insured Property is a multi-tenant facility. Defendants are working with three of these tenants to set a time and date for their respective depositions. The depositions referenced above, including Plaintiff's depositions of Defendant's fact and expert witnesses are critical to the preparation of this case not only for trial, but so that the Parties can conduct a fruitful mediation.

B. PENDING TRIAL SCHEDULE

In addition to these deposition scheduling issues, Defendant's counsel is currently set for trial in several matters in consecutive weeks in January and February, including one trial set on the same day as this matter, making it virtually impossible for Defendant's to properly prepare the instant case for trial by the current trial date. In that regard, Defendant's counsel is currently set for trial in the following matters:

Case Name	Case Information	Trial Date
<i>Hai Minh Le, et al. v. Safeco Ins. Co. of Indiana, et al.</i>	Cause No DC-16-00716, 193rd Judicial District of Dallas County, Texas	January 10, 2017
<i>Jose Arellano, et al v. Safeco Ins. Co. of Indiana, et al.</i>	Cause No. DC-15-07730, 191st Judicial District, Dallas County	January 17, 2017
<i>Kerry Smith, et al v. Safeco Ins. Co. of Indiana, et al</i>	Cause No. 296-00475-2015, 296th Judicial District, Collin County	January 23, 2017
<i>Pedro Nieto, et al v. Safeco Ins. Co. of Indiana, et al</i>	Cause No. 429-00290-2016, 429th Judicial District, Collin County	February 13, 2017

Unsuccessful mediations have already been conducted in each of these cases. Therefore, at this point, it is unlikely that any of these matters will be resolved.

Counsel for both parties have a long history of working together on similar cases to complete discovery. The Parties continue in their diligent and cooperative efforts to schedule the remaining depositions. However, for the reasons explained herein, the Parties agree that they will be unable to complete all necessary deposition discovery before the current trial date.

C. CURRENT SETTLEMENT NEGOTIATIONS AND MEDIATION

Furthermore, The Parties are working diligently together and have a history of making good faith efforts to resolve cases. The Parties are currently involved in constructive settlement discussions and negotiations are ongoing. Towards that end, the Parties need additional time within which to complete discovery, which will allow the Parties to conduct a fruitful mediation. The Parties are currently discussing potential dates for a mediation to be held in Dallas, if possible, in early February.

II.

REQUESTED RELIEF

Based on the foregoing, the Parties request additional time in which to conduct additional written discovery, take depositions (parties, fact witnesses, consultants and experts), and prepare for trial. The Parties respectfully request that the Court issue an order vacating the Scheduling Order and current trial date of February 13, 2017. The Parties further request that the Court set a new trial date in June, 2017. The Parties further request that the Court continue the corresponding pre-trial deadlines, including discovery, expert designation, and dispositive motion deadlines.

The requested relief will not prejudice either party and will conserve judicial economy. However, the Parties will be prejudiced if the Court does not grant the requested relief, as the Parties will not have sufficient time to prepare this case for trial. Accordingly, the Parties seek the requested relief not for purposes of delay, but so that justice may be done.

Pursuant to Local Rule 40.1, the Parties' client representatives personally approve of this request for continuance as reflected by the signatures below.

III.

PRAYER

WHEREFORE, the Plaintiff Blackstone Developers, LLC and Defendant Ohio Security Insurance Company respectfully request that this Court grant the Parties' Agreed Motion for Continuance. The Parties further request that the Court vacate the current Scheduling Order and trial setting of February 13, 2017 and re-set a new trial setting in June, 2017. The Parties further request that the Court continue the corresponding pre-trial deadlines, including discovery, expert designation, and dispositive motion deadlines.

Respectfully Submitted,

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Parties will not have sufficient time to prepare this case for trial. Accordingly, the Parties seek the requested relief not for purposes of delay, but so that justice may be done.

Pursuant to Local Rule 40.1, the Parties' client representatives personally approve of this request for continuance as reflected by the signatures below.

III.

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WHEREFORE, the Plaintiff Blackstone Developers, LLC and Defendant Ohio Security Insurance Company respectfully request that this Court grant the Parties' Agreed Motion for Continuance. The Parties further request that the Court vacate the current Scheduling Order and trial setting of February 13, 2017 and re-set a new trial setting in June, 2017. The Parties further request that the Court continue the corresponding pre-trial deadlines, including discovery, expert designation, and dispositive motion deadlines.

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